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**DEPARTMENT OF AGRICULTURE**

**Natural Resources Conservation Service**

**[Docket No. NRCS-2020-0005]**

**Notice of Availability of the Mississippi Trustee Implementation Group Final Restoration Plan II and Environmental Assessment: Wetlands, Coastal, and Nearshore Habitats and Oysters and Finding of No Significant Impact**

**AGENCY:** Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture (USDA).

**ACTION:** Notice of availability and Finding of No Significant Impact

**SUMMARY:** In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act of 1969 (NEPA), the Deepwater Horizon Oil Spill Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS), Record of Decision, and Consent Decree, the Federal and State natural resource trustee agencies for the Mississippi Trustee Implementation Group (MS TIG) prepared a Final Restoration Plan II Environmental Assessment: Wetlands, Coastal, and Nearshore Habitats and Oysters (RPII/EA) and Finding of No Significant Impact (FONSI). The RPII/EA describes the restoration project alternatives considered by the MS TIG that meet the Trustees' goals to restore and conserve habitat and replenish and protect living coastal and marine resources. The MS TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment (NRDA) regulations and also evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The MS TIG

selected four restoration projects in the RPII/EA for implementation in the Mississippi Restoration Area, which are consistent with the Trustees' selected programmatic alternative in the PDARP/PEIS. The purpose of this notice is to inform the public of the availability of the RPII/EA and FONSI.

**ADDRESSES:**

*Obtaining Documents:* You may download the RPII/EA and FONSI at <http://www.gulfspillrestoration.noaa.gov>. Alternatively, you may request a CD of the RPII/EA and FONSI (see **FOR FURTHER INFORMATION CONTACT**). You may also view the document at any of the public facilities listed at <http://www.gulfspillrestoration.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ron Howard, Senior Technical Advisor, Natural Resource Specialist, at [ron.howard@ms.usda.gov](mailto:ron.howard@ms.usda.gov); and Valerie Alley, NRDA Coordinator, at [mississippiTIG@mdeq.ms.gov](mailto:mississippiTIG@mdeq.ms.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

On April 20, 2010, the mobile offshore drilling unit Deepwater Horizon, which was being used to drill a well for BP Exploration and Production Inc. (BP), in the Macondo prospect (Mississippi Canyon 252 - MC252), exploded, caught fire, and subsequently sank in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The Deepwater Horizon oil spill is the largest maritime oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area to disperse the spilled oil. An

undetermined amount of natural gas was also released to the environment as a result of the spill.

The Deepwater Horizon State and Federal natural resource trustees (DWH Trustees) conducted the natural resource damage assessment (NRDA) for the Deepwater Horizon oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 - 2720) and the implementing NRDA regulations (15 CFR part 990). In accordance with OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and to implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The DWH Trustees are:

- U.S. Department of the Interior (DOI), as represented by the U.S. Fish and Wildlife Service (USFWS), the National Park Service (NPS), and Bureau of Land Management (BLM);
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce (DOC);
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);

- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality (MDEQ);
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- The State of Texas, Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Upon completion of NRDA, the DWH Trustees reached and finalized a settlement of their natural resource damage claims with BP in a Consent Decree<sup>1</sup> approved by the United States District Court for the Eastern District of Louisiana. In accordance with that Consent Decree, restoration projects in the Mississippi Restoration Area are now chosen and managed by the MS TIG.

The MS TIG is composed of the following Trustees:

- MDEQ;
- DOI, as represented by the USFWS, the NPS, and the BLM;
- NOAA, on behalf of DOC;
- USDA; and
- EPA.

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<sup>1</sup><https://www.justice.gov/enrd/file/838066/download>

The restoration planning activities are proceeding in accordance with the Final PDARP/PEIS. Restoration Types evaluated in the RPII/EA include: Wetlands, Coastal, and Nearshore Habitats; and Oysters. Information on the restoration types that were considered in the RPII/EA, as well as a general overview of the OPA NRDA criteria against which project ideas were evaluated, can be found in the Final PDARP/PEIS (<http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan>) and in the Overview section of the PDARP/PEIS (<http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan>).

The MS TIG posted a Notice of Solicitation calling for project ideas on June 11, 2018<sup>2</sup> through August 10, 2018 (June 11, 2018, Notice). Project ideas were requested for the following restoration types: Wetlands, Coastal, and Nearshore Habitats (WCNH); Nutrient Reduction; Oysters; Sea Turtles; and Marine Mammals. During the planning process the MS TIG decided to focus only on WCNH and Oyster Restoration Types in RPII. On October 10, 2018, the MS TIG published a Notice of Initiation of Restoration Planning in Mississippi<sup>3</sup>.

The notice of availability of the Draft RPII/EA was published in the Federal Register on April 22, 2020 (85 FR 22393-22395). In the Draft RPII EA, the MS TIG evaluated seven alternatives and two No Action Alternatives for the WCNH and Oysters Restoration Types, respectively. In the Draft RPII/EA, the MS TIG determined that the actions proposed for selection would be consistent with the programmatic restoration

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<sup>2</sup><https://www.gulfspillrestoration.noaa.gov/2018/06/mississippi-trustee-implementation-group-welcomes-publics-project-ideas>

<sup>3</sup><https://www.gulfspillrestoration.noaa.gov/2018/10/notice-initiation-restoration-planning-mississippi>

alternative selected in the Final PDARP/PEIS and would be funded by \$4,887,500 from the WCNH Restoration Type and \$10,500,000 from the Oysters Restoration Type allocations to the Mississippi Restoration Area. The MS TIG provided the public with 30 days to review and comment on the Draft RPII/EA and hosted a public webinar to provide an overview of the Draft RPII/EA and to provide opportunity for public comment. Public comment was also received electronically through the Trustee-wide public website, the Regulations.gov website, and by mail and email correspondence. The MS TIG considered the public comments received (See Chapter 8.0 of the RPII/EA), which informed the MS TIG's analysis of alternatives in the RPII/EA. The MS TIG also considered the OPA NRDA criteria against which project ideas are evaluated, which can be found in the PDARP/PEIS and in the Overview of the PDARP/PEIS (<http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan>).

### **Overview of the RPII/EA**

The RPII/EA is being released in accordance with the OPA NRDA regulations in 15 CFR part 990, NEPA (42 U.S.C. parts 4321 - 4347), and 40 CFR part 1500.

In the RPII/EA, the MS TIG selects four alternatives to be funded from Restoration Type funds as specified below. Specifically, the MS TIG selects the following projects for implementation:

- Wolf River Coastal Preserve Habitat Management – Dupont and Bell's Ferry Tracts (WCNH);
- Hancock County Coastal Preserve Habitat Management – Wachovia Tract (WCNH);
- Oyster Spawning Reefs in Mississippi (Oysters); and

- Mississippi Oyster Gardening Program (Oysters).

The total estimated cost of the four selected alternatives is approximately \$15 million.

The RPII/EA evaluates a reasonable range of alternatives and a No Action Alternative for each of the Restoration Types. As a result of its evaluation, the MS TIG determined that the restoration projects selected for funding are most appropriate for providing partial compensation to the public for injured natural resources and ecological services in the Mississippi Restoration Area. The selected alternatives are intended to continue the process of restoring natural resources and ecological services injured or lost as a result of the Deepwater Horizon oil spill. Additional restoration planning for the Mississippi Restoration Area will continue.

In accordance with NEPA and as part of the RPII/EA, the Trustees issued a FONSI which is available in Appendix E of the RPII/EA.

### **Administrative Record**

The DWH Trustees opened a publicly available Administrative Record for the NRDA for the Deepwater Horizon oil spill, including restoration planning activities, concurrently with publication of the 2011 Notice of Intent to Begin Restoration Scoping and Prepare a Gulf Spill Restoration Planning PEIS (pursuant to 15 CFR 990.45). The Administrative Record includes the relevant administrative records since its date of inception. This Administrative Record is actively maintained and available for public review. The documents included in the Administrative Record can be viewed electronically at the following location:

<http://www.doi.gov/deepwaterhorizon/adminrecord>.

**Authority**

The authority for this action is the OPA (33 U.S.C. 2701 *et seq.*), its implementing NRDA regulations in 15 CFR part 990, and the NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations in 40 C.F.R. parts 1500–1508.

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